

09/08/03

**CERTIFICATE OF EXPRESS MAILING UNDER #& C.F.R. §1.10**


I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being mailed via "Express Mail Post Office to Addressee" service of the United States Postal Service (Express Mail Label No. EL 989 435 941 US) on the date shown below in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 8, 2003.

By::

**Kim A. Cabello**

**IN THE UNITED STATES PATENT AND TRADEMARK  
OFFICE  
REQUEST FOR FILING  
(RULE 53(b)(1))**

22151 U.S. PTO  
10/658363



09/08/03

### For Design or Utility Applications

**Rule 53(b)(1) PATENT APPLICATION:**

☐ Continuation )  
☒ Divisional ) application under 37 CFR 1.53(b)(1)  
 application under 37 CFR 1.53(b)(1)  
 of pending prior application of

**(DO NOT USE FOR CIPs)**

Group Art Unit: 2877

**Inventor(s):** Gene Gould and Michael J. Conrad

Parent Appln. No.:	09	552,803
	Series Code ↑	Serial No. ↑

**Examiner: Fannie L. EVANS**

Atty. Dkt.	P 016417	305324
	New M#	Client Ref

**Parent Filed: April 20, 2000**

**This Appln. Filed: September 8, 2003**

**Title: NOVEL SCANNING SPECTROPHOTOMETER FOR HIGH THROUGHPUT FLUORESCENCE DETECTION**

**Mail Stop Patent Application  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450**

Date: September 8, 2003  
(Parent Matter No. 016417-276328)

**Sir:**

**To effect the above-requested filing today:**

1. **Attached** is a copy (**which must be filed**) of the prior application, including:

- ☒ Abstract
- ☒ Specification and claims (26 pages) (**must be attached**)
- ☒ Drawings (**must be attached if originally filed**): 7 sheet(s)/set: ☐ 1 set informal;  
☒ Formal of size ☒ A4 ☐ 11"

1A. Always X one box, only:

- (1) ☒ Copy of Signed declaration or oath as originally filed in prior application attached
- (2) ☐ NO declaration or fee is enclosed; therefore, this is a filing under Rule 53(f).
2. ☐ This application is hereby filed by less than all of the inventors named in the prior application. Petition is hereby made requesting deletion as inventor(s) of the following who is/are **not** inventor(s) of the invention

being claimed in this application (DELETE THE FOLLOWING INVENTOR(S)):

1. \_\_\_\_\_ 2. \_\_\_\_\_  
3. \_\_\_\_\_ 4. \_\_\_\_\_

2.5 THE INVENTOR(S) FOR THIS NEW APPLICATION IS(ARE):

1. \_\_\_\_\_ 2. \_\_\_\_\_  
3. \_\_\_\_\_ 4. \_\_\_\_\_

3. The entire disclosure of the prior application is considered as being part of the disclosure of the accompanying application and is hereby incorporated therein by reference thereto.

4. ☐ Priority is claimed under 35 U.S.C. 119/365 based on filing in \_\_\_\_\_ of \_\_\_\_\_ (country)

(1)	<u>Application No.</u>	<u>Filing Date</u>	(2)	<u>Application No.</u>	<u>Filing Date</u>
(3)	_____	_____	(4)	_____	_____
(5)	_____	_____	(6)	_____	_____

a. ☐ \_\_\_\_\_ (No.) Certified copy/copies attached.

b. ☐ Certified copy/copies previously filed on \_\_\_\_\_ in \_\_\_\_\_  
U.S. Application No. \_\_\_\_\_ / \_\_\_\_\_, filed on \_\_\_\_\_  
series code  $\uparrow$  serial no. \_\_\_\_\_

c. ☐ Certified copy/copies filed during International stage of PCT/ \_\_\_\_\_ / \_\_\_\_\_

4. (a) ☐ Domestic priority is claimed from PCT/ \_\_\_\_\_ / \_\_\_\_\_, filed \_\_\_\_\_

(b) ☒ Benefit is claimed of Provisional Application No. 60/130,438, filed 04/21/99.

5. ☒ Prior application is assigned to Chromagen, Inc.  
by assignment recorded 08-08-00 (Date) Reel 011040 Frame 0846.

6. ☒ Attached is the following number of Assignments (including original and all later successive ones by different assignors): 1 and respective **new** Cover Sheets. (Do **NOT** file old cover sheets.)

(Assignments in parent **must be refiled** with new Cover Sheets in this continuing application if you want it/them recorded against the continuing application.)

Please return the recorded Assignment to the undersigned.

7. ☒ The power of attorney in the prior application is to John R. Wetherell, Ph.D. Reg. No. 31,678

(Name and Reg. No.)  
whose current address is as in item 8 below.

a. ☐ Recognize as associate attorney \_\_\_\_\_

(Name, Reg. No. and Address)

8. **Address all future communications to Intellectual Property Group  
f Pillsbury Winthrop LLP, 11682 El Camino Real, Suite 200, San Diego, CA 92130**

9. This application claims benefit of the following prior US application(s), the contents of which are incorporated into this application by this reference:

No.	<u>60/</u>	<u>130,438</u>	filed	<u>04-21-99</u>
No.	<u>09/</u>	<u>552,803</u>	filed	<u>04-20-00</u>
No.	<u>/</u>		filed	
No. PCT/	<u>/</u>		filed	

, which

designated the U.S. and that International Application ☐ was ☐ was not published under PCT Article 21(2) in English

- 9(a). ☒ See the attached Preliminary Amendment, which amends the first page of the specification to claim benefit of the above listed US application(s)

10. **Small Entity Status** ☐ is Not claimed ☒ is claimed (pr -filing confirmation required)

(No.) Small Entity Statement(s) (not essential since 9/8/00) were/are:  
☒ filed in above prior application  
☐ attached.

11. Petition to extend the life of the above prior application to at least the date hereof  
 (one box) ☐ is being concurrently filed in that prior application (Use Form PAT-111).  
 (must be) ☐ was previously filed in that prior application (Check length of prior extension).  
 (X'd) ☐ is not necessary for copendency (**Double check** before X'ing this box).

12. ☐ **INFORMATION DISCLOSURE STATEMENT:** Attached is Form PTO-1449 listing all of the documents cited by Applicant and the PTO in the parent application(s) relied upon under 35 USC 120 and referenced in item 9 above. Per Rule 98(d) copies of those documents are not required now. Please consider those documents and advise that they have been considered in this new application as by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.

13. ☐ Attached is a Rule 103(a) Petition to Suspend Action.

14. ☒ **Please see** the attached Preliminary Amendment which reduces the number of claims for purposes of reducing the initial filing fee.

### FILING FEE

THE FOLLOWING FILING FEE IS BASED ON

-->>>>CLAIMS AS FILED AND CHANGED BY PRELIMINARY AMENDMENT IN ITEM 14<<<<<<

**NOTE:** If box 1A2 is X'd, do not pay fees,  
 but leave lines 15-22 and 27-32 blank.

**PTO: PLEASE NOTE CLAIM CANCELLATIONS IF BOX 14 ABOVE IS X'D.**

				Large/Small Entity		Fee Code
15. Basic Filing Fee .....				Design Application	\$330/\$165	106/26
16. Basic Filing Fee .....				Utility Application	\$750/\$375	101/201
17. Total Effective Claims	8	minus 20 =	0	x \$18/\$9	+0	103/203
18. Independent Claims	2	minus 3 =	0	x \$84/\$42	+0	102/202
19. If <u>any proper</u> multiple dependent claim (ignore improper) is present,				\$280/\$140	+0	104/204
20. Subtotal =				\$375		
21. If "petition" box 13 above is X'd, add petition fee. ....				\$130	+0	122
21A. If box 6 above is X'd, add Assignment recording fee .....				\$ 40	+40	581
22. TOTAL FILING FEE =				\$415		

(carry forward to Item 31)

23. ☒ ATTACHED: New Application Cover Sheet; and Return Postcard
24. ☒ Preliminary Amendment attached (to be entered after assigning Appln. No.)
25. ☐ See **NONPUBLICATION REQUEST** under Rule 213(a) attached (Pat-258)

26.

**ADDITIONAL FEE CALCULATION FOR  
PRELIMINARY AMENDMENT  
PER BOXES 24/25**

	Claims remaining after amendment	Highest number previously paid for	Present Extra		Additional Fee	File Code
				<u>Large/Small Entity</u>		
27.	Total Effective Claims <u>8</u>	minus ** <u>20</u>	= <u>0</u>	x \$18/\$9	= \$ <u>0</u>	(103/203)
28.	Independent Claims <u>2</u>	minus *** <u>3</u>	= <u>0</u>	x \$84/\$42	= + <u>0</u>	(102/202)
29.	If amendment enters proper multiple dependent claim(s) into this application for the <u>first time</u> , add (per application) .....				\$280/\$140 + <u>0</u>	(104/204)
30.				ADDITIONAL FEE	\$ <u>0</u>	
31.				<u>plus</u> FEE from item 22 on page 3	+ <u>415</u>	
32.				<b><u>TOTAL FEE</u></b>	<b>\$ <u>415</u></b>	

33. \*If the entry in this space is less than a entry in the next space, the "Present Extra" result is "0"

34. \*\*If the "Highest number previously paid for" (see item 17 above) is less than 20, write "20" in this space

PLEASE CHARGE OUR DEP. ACCT.
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35. If the "Highest number previously paid for" (see item 18 above) is less than 3, write "3" in this space

**Our Deposit Account No. 50-2212**

Our Order No.	<u>016417</u>	<u>305324</u>
	C#	M#

**CHARGE STATEMENT:** Upon the filing of a Declaration pursuant to Rule 60(b) or 60(d), the Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown above for which purpose a duplicate copy of this sheet is attached.

**This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.**

**Pillsbury Winthrop LLP  
Intellectual Property Group**

11682 El Camino Real  
Suite 200  
San Diego, CA 92130-2092  
Tel: (619) 234-5000  
VJC/kac  
Atty./Sec.

By Atty: John R. Wetherell, Ph.D.Sig: Reg. No. 31,678

Fax: (858) 509-4010  
Tel: (858) 509-4007

**NOTE No. 1:** File this Request in duplicate with 2 postcard receipts (PAT-103) & attachments

**NOTE N . 2:** Is extension in parent necessary for copendency? **DOUBLE CHECK** Item 11 above.  
If yes, printout Pat-111 and head it in parent.